

Guardianship Program Rules

403 Self-Determination of Incapacitated Person

403.1 The civil rights and liberties of the incapacitated person shall be protected. The independence and self-reliance of the incapacitated person shall be maximized to the greatest extent consistent with their protection and safety. The guardian shall protect the personal and economic interests of the incapacitated person and foster growth, independence, and self-reliance.

403.2 Whenever appropriate a guardian shall consult with the incapacitated person, and shall treat with respect, the feelings, values, and opinions of the incapacitated person. The guardian shall acknowledge the residual capacity and preferences of the incapacitated person.

403.3 When making decisions on behalf of the incapacitated person, the guardian shall evaluate the alternatives that are available and choose the one that best meets the needs of the incapacitated person while placing the least restrictions on the incapacitated person's freedom, rights, and ability to control his or her environment.

403.4 When appropriate, the guardian will defer to an incapacitated person's residual capacity to make decisions.

403.5 Unless otherwise directed by the court, the guardian shall provide copies of all material filed with the court and notice of all hearings in the guardianship to the incapacitated person.

403.6 The guardian shall, whenever appropriate or required by law, provide other requested information to the incapacitated person unless the guardian is reasonably certain that substantial harm will result from providing such information. This information shall include, but not be limited to, regular reports on: (a) the status of investments and operating accounts, (b) the costs and disbursements necessary to manage the incapacitated person's estate, and (c) medical and other personal information related to the care of the incapacitated person.

403.7 The guardian shall determine the extent to which the incapacitated person identifies with particular ethnic, religious, and cultural values and shall consider those values in the guardian's decision-making to the extent appropriate.

403.8 Sexual Expression:

403.8.1 The guardian shall acknowledge the incapacitated person's right to interpersonal relationships and sexual expression. The guardian shall take reasonable steps to ensure that a private environment conducive to this expression is provided. The guardian shall take reasonable steps to protect the incapacitated person from victimization.

403.8.2 The guardian shall ensure that the incapacitated person is informed of birth control methods when appropriate.

403.8.3 The guardian shall take reasonable steps to protect the rights of the incapacitated person with regard to sexual expression and preference. A review of ethnic, religious, and cultural values may be necessary to uphold the incapacitated person's values and customs.